



Sen. Martin A. Sandoval

**Filed: 4/1/2016**

09900SB3020sam001

LRB099 20724 AXK 46950 a

1 AMENDMENT TO SENATE BILL 3020

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3020 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Innovations for Transportation Infrastructure Act.

6 Section 5. Legislative policy.

7 (a) It is the public policy of the State of Illinois to  
8 promote the development of infrastructure projects that serve  
9 the needs of the public.

10 (b) The design-build and construction manager-general  
11 contractor project delivery methods and use of alternative  
12 technical concepts have the potential to capture private sector  
13 innovation and safely deliver infrastructure projects on more  
14 predictable schedules and budgets. Earlier completion and  
15 lower cost for projects are possible with the ability to shift  
16 or share risks with the private sector that are generally

1 retained by the public in the conventional design-bid-build  
2 project delivery method.

3 (c) It is the intent of the General Assembly that the  
4 Department of Transportation and the Illinois State Toll  
5 Highway Authority may evaluate and use alternative technical  
6 concepts proposed by bidders and proposers and to use the DB  
7 and CMGC project delivery methods.

8 (d) It is the intent of this Act to use design  
9 professionals, construction companies, and workers from this  
10 State to the greatest extent possible.

11 (e) The powers granted in this Act are in addition to any  
12 other powers authorized under applicable law.

13 Section 10. Definitions. As used in this Act:

14 "Agency" means the Department of Transportation or the  
15 Illinois State Toll Highway Authority.

16 "ATC" or "Alternative Technical Concepts" means a proposed  
17 deviation from the contract technical requirements set forth in  
18 the procurement documents for a transportation facility that  
19 offers a solution that is equal or better than the requirements  
20 in the procurement documents.

21 "Authority" means the Illinois State Toll Highway  
22 Authority.

23 "Best value" means any selection process in which proposals  
24 contain both price and qualitative components and award is  
25 based upon a combination of price, qualitative concepts, and

1 other factors.

2 "Chief procurement officer" means the chief procurement  
3 officer for the Department or the Authority.

4 "CMGC contract" means the two-phase contract between the  
5 Department or the Authority and a construction manager-general  
6 contractor, which includes a first phase addressing  
7 preconstruction services and a second phase addressing the  
8 construction of the transportation facility.

9 "Construction manager-general contractor" or "CMGC" means  
10 a proposer that has entered into a construction manager-general  
11 contractor contract under this Act.

12 "Construction manager-general contractor project delivery  
13 method" or "CMGC project delivery method" means a method of  
14 procurement and contracting that makes a CMGC who enters into a  
15 contract with the Department or the Authority responsible for  
16 certain preconstruction services and then, if the parties reach  
17 agreement on key terms, responsible for construction of the  
18 transportation facility.

19 "DB" means design-build.

20 "Department" means the Illinois Department of  
21 Transportation.

22 "Design-bid-build project delivery method" means the  
23 traditional method of procuring and contracting for design  
24 services and construction services used separately in this  
25 State, which incorporates the Architectural, Engineering, and  
26 Land Surveying Qualifications Based Selection Act and the

1 principles of competitive bidding under the Illinois  
2 Procurement Code.

3 "Design-build contract" or "DB contract" means a contract  
4 between the Department or the Authority and a design-builder  
5 under which the design-builder agrees to furnish  
6 architectural, surveying, engineering, construction, and  
7 related services for a transportation facility.

8 "Design-build project delivery method" or "DB project  
9 delivery method" means a method of procurement and contracting  
10 that provides responsibility within a single contract between  
11 the Department or the Authority and a design-builder for the  
12 furnishing of architectural, surveying, engineering,  
13 construction, and related services for a transportation  
14 facility.

15 "Design-builder" means a proposer that has entered into a  
16 design-build contract with the Department or the Authority  
17 under this Act.

18 "Evaluation Committee" means the committee assembled to  
19 evaluate and score statements of qualifications and proposals.

20 "Evaluation criteria" means the standards and requirements  
21 established by the Department or the Authority against which  
22 the qualifications and proposals of a proposer will be assessed  
23 during the procurement of a design-build contract or  
24 construction manager-general contractor contract, as  
25 applicable.

26 "Executive Director" means the Executive Director of the

1 Illinois State Toll Highway Authority.

2 "Metropolitan planning organization" means a metropolitan  
3 planning organization under 23 U.S.C. 134 whose metropolitan  
4 planning area boundaries are partially or completely within  
5 this State.

6 "Preconstruction services" means all  
7 non-construction-related services that a construction  
8 manager-general contractor is required to perform during the  
9 first phase of a construction manager-general contractor  
10 contract, which may include giving advice to the Department or  
11 the Authority regarding scheduling, work sequencing, cost  
12 engineering, constructability, cost estimating, and risk  
13 identification.

14 "Proposal" means a proposer's response to a request for  
15 proposals.

16 "Proposer" means any individual, sole proprietorship,  
17 firm, partnership, joint venture, corporation, professional  
18 corporation, or other entity legally established to conduct  
19 business in this State that proposes to be the design-build or  
20 construction manager-general contractor for any transportation  
21 facility under this Act.

22 "Qualifications" means a statement of qualifications  
23 submitted by a proposer in response to a request for  
24 qualifications.

25 "Request for proposals" means the document issued by the  
26 Department or the Authority to solicit proposals and describe

1 the procurement process for a design-build contract or  
2 construction manager-general contractor contract in accordance  
3 with the design-build project delivery method or the  
4 construction manager-general contractor project delivery  
5 method, as applicable.

6 "Request for qualifications" means the document issued by  
7 the Department or the Authority in the first phase of a  
8 two-phase procurement to solicit qualifications from proposers  
9 in accordance with the design-build project delivery method or  
10 the construction manager-general contractor project delivery  
11 method, as applicable.

12 "Scope and performance requirements" means the constructed  
13 elements, activities, and standards of performance required by  
14 the Department or the Authority to be complied with in the  
15 development of the transportation facility, which may include,  
16 but not be limited to, the intended usage, capacity, size,  
17 scope, quality and performance standards, life-cycle costs,  
18 preliminary engineering, design, and other requirements as  
19 developed and determined by the Department or the Authority.

20 "Secretary" means the Secretary of Transportation of the  
21 Illinois Department of Transportation.

22 "Transportation facility" means any new or existing  
23 facility or group of facilities that are the subject of a  
24 design-build contract or a construction manager-general  
25 contractor contract, and which may include highways, roads,  
26 bridges, tunnels, overpasses, bus ways, guideways, ferries,

1 airports or other aviation facilities, public transportation  
2 facilities, vehicle parking facilities, port facilities, rail  
3 facilities, stations, hubs, terminals, intermodal facilities,  
4 transit facilities, or similar facilities used for the  
5 transportation of persons or goods, together with any  
6 buildings, structures, parking areas, appurtenances,  
7 intelligent transportation systems, and other property or  
8 facilities related to the operation or maintenance of these  
9 facilities.

10 Section 15. Authorization of project delivery methods.

11 (a) Notwithstanding any other law, and as authority  
12 supplemental to its existing powers, the Agency, in accordance  
13 with this Act, may use the design-build project delivery method  
14 for a transportation facility, provided that the capital costs  
15 for the transportation facility utilizing the design-build  
16 project delivery method does not exceed 20% of the Agency's  
17 multi-year highway improvement program for any 5-year period.  
18 The Agency shall make this calculation prior to commencing the  
19 procurement for a design-build contract and shall use the  
20 Agency's estimated cost for that transportation facility. The  
21 Agency, in accordance with this Act, may use the CMGC project  
22 delivery method for up to 3 transportation facilities. Prior to  
23 commencing a procurement under this Act for either a  
24 design-build contract or a CMGC contract, the Agency must first  
25 conduct an analysis and make a written determination that it is

1 in the best interests of this State to utilize the selected  
2 delivery method for that transportation facility. The analysis  
3 and determination shall discuss the design-build or CMGC  
4 project delivery method's impact on the anticipated schedule,  
5 completion date, and project costs. The best interests of the  
6 State analysis shall be made available to the public.

7 (b) The Agency shall report to the General Assembly  
8 annually for the first 5 years after the effective date of this  
9 Act on the progress of procurements and transportation  
10 facilities procured under this Act.

11 Section 20. Preconditions to commencement of procurement.

12 If the Agency determines to use the design-build project  
13 delivery method or the CMGC project delivery method for a  
14 particular transportation facility, the Agency shall not  
15 commence a procurement for the transportation facility until:

16 (1) the Agency uses its best effort to ensure that the  
17 transportation facility is consistent with the regional plan of  
18 any metropolitan planning organization in which the boundaries  
19 of the transportation facility are located; and

20 (2) the Agency completes at least one of the following:

21 (A) includes the transportation facility in the  
22 Department's respective multi-year highway improvement  
23 program and designates it as a DB or CMGC project;

24 (B) issues a notice of intent to receive qualifications  
25 at least 14 days prior to the issuance of the request for

1 qualifications; or

2 (C) for a single phase procurement under subsection (a)  
3 of Section 25 of this Act, issues a notice of intent to  
4 receive proposals at least 14 days prior to the issuance of  
5 the request for proposals. If the Agency issues this notice  
6 of intent, the Department shall publish the notice in the  
7 Department's Transportation Bulletin and the Authority  
8 shall publish the notice in the Illinois Procurement  
9 Bulletin. The Agency shall include a description of the  
10 proposed procurement and transportation facility in any  
11 notice of intent.

12 Section 25. Procurement process.

13 (a) The Agency may solicit a proposer with which to enter  
14 into a design-build contract or CMGC contract, as applicable,  
15 by using, without limitation, one or more requests for  
16 qualifications, short-listing of the most highly qualified  
17 proposers, or requests for proposals and negotiations. The  
18 Agency shall use a two-phase procurement for a design-build  
19 contract to select the successful proposer; provided that the  
20 Agency may use a single phase procurement if the transportation  
21 facility is estimated to cost less than \$10,000,000 or the  
22 Secretary of Transportation or the Executive Director makes a  
23 written determination that the Agency may use a single phase  
24 procurement for a particular transportation facility. In a  
25 two-phase procurement, the Agency shall use the first phase to

1 evaluate and short-list the most highly qualified proposers  
2 based on qualifications, and then use the second phase to  
3 evaluate and select a proposer based on proposals submitted by  
4 the short-listed proposers. In a single phase procurement, the  
5 Agency shall solicit proposers with a request for proposals,  
6 and shall evaluate and select a proposer based on those  
7 proposals.

8 (b) The request for qualifications may contain any  
9 information deemed appropriate by the Agency including,  
10 without limitation, the following information:

11 (1) the anticipated scope of work for the  
12 transportation facility;

13 (2) a requirement that the proposer identify certain  
14 key personnel, and for DB contracts certain key firms, the  
15 experience of the personnel and firms, and the conditions  
16 on which identified personnel and firms can be replaced;

17 (3) the evaluation criteria for the qualifications and  
18 the relative importance of those criteria; these  
19 evaluation criteria may address, without limitation, the  
20 proposer's technical and financial qualifications, such as  
21 specialized experience, technical competence, capability  
22 to perform, financial capacity, past performance,  
23 including the proposer's safety record, and any other  
24 qualifications based factors;

25 (4) the Agency's prequalification, licensing, and  
26 registration requirements, including any requirements from

1 the Professional Engineering Practice Act of 1989, the  
2 Illinois Architecture Practice Act of 1989, the Structural  
3 Engineering Practice Act of 1989, and the Illinois  
4 Professional Land Surveyor Act of 1989, provided that  
5 nothing contained herein precludes the Agency's use of  
6 different or additional prequalification criteria or  
7 pass/fail evaluation factors addressing minimum levels of  
8 technical experience or financial capabilities;

9 (5) the maximum number of proposers the Agency will  
10 short-list to submit proposals; and

11 (6) any other relevant information the Agency deems  
12 appropriate.

13 (c) Upon completion of the qualifications evaluation, the  
14 Agency shall, based on the evaluation criteria set forth in the  
15 request for qualifications, create a short-list of the most  
16 highly qualified proposers. The Agency shall short-list no more  
17 than 5 and no fewer than 2 of the most highly qualified  
18 proposers. Notwithstanding other provisions of this subsection  
19 (c), the Agency may short-list fewer than 2 proposers if the  
20 Secretary of Transportation or the Executive Director make a  
21 finding that an emergency situation justifies the limited  
22 short-listing and fewer than 2 proposers meet any applicable  
23 prequalification or pass/fail requirements set forth in the  
24 request for qualifications.

25 (d) The request for proposals may contain any information  
26 deemed appropriate by the Agency including, without

1 limitation, the following information:

2 (1) the form and amount of required bid security;

3 (2) the terms of the DB or CMGC contract including, but  
4 not limited to, scope and performance requirements,  
5 schedule or completion date requirements, subcontractor  
6 requirements, payment and performance security  
7 requirements, and insurance requirements;

8 (3) the requirements for the technical component of the  
9 proposal, including a description of the level of design,  
10 scope and type of renderings, drawings, and specifications  
11 to be provided in the proposals;

12 (4) the requirements for the price component of the  
13 proposal, which for CMGC contracts may include a  
14 requirement for the proposer to submit a lump sum price for  
15 the direct costs to perform the required preconstruction  
16 services and percentage mark-up on those direct costs;

17 (5) the evaluation criteria for the proposals and the  
18 relative importance of those criteria, including any  
19 formulas to be employed by the Agency, as the Agency deems  
20 appropriate;

21 (6) a process for the Agency to review and accept  
22 alternate technical concepts;

23 (7) requirements regarding the proposer's  
24 qualifications; and

25 (8) any other relevant information the Agency deems  
26 appropriate.

1 (e) Prior to the proposers' submittal of proposals, the  
2 Agency may conduct confidential meetings and exchange  
3 confidential information with proposers to promote  
4 understanding of the request for proposals, review alternative  
5 technical concepts, or discuss other issues related to the  
6 procurement.

7 (f) The date proposals are due must be at least 28 calendar  
8 days after the date the Agency first issues the request for  
9 proposals.

10 (g) The Agency may offer to pay a stipend in an amount and  
11 on the terms and conditions determined by the Agency and as set  
12 forth in the request for proposals to (1) all short-listed  
13 proposers if the Agency cancels the procurement before the due  
14 date for proposals; or (2) each unsuccessful proposer that  
15 submits a responsive proposal. The Agency may pay a stipend  
16 only to those proposers who grant to the Agency the right to  
17 use any work product contained in the unsuccessful proposer's  
18 proposal and other proposal-related submissions or, if the  
19 Agency cancels the procurement before the due date for  
20 proposals, any work product developed prior to cancellation,  
21 including technologies, techniques, methods, processes, and  
22 information contained in the recipient's design for the  
23 transportation facility.

24 (h) The Agency shall, as appropriate depending on whether  
25 the transportation facility includes building facilities,  
26 directly employ or retain a professional engineer or engineers

1 licensed in the State or a licensed architect or architects, or  
2 both engineers licensed in this State and licensed architects,  
3 to prepare the scope and assist in the evaluation of the  
4 proposals' technical submissions under a design-build project  
5 delivery method. The professional engineers and licensed  
6 architects performing these services are generally precluded  
7 from participating in the procurement of the transportation  
8 facility at issue as a member of a proposer team.

9 (i) The Agency shall have the right to reject any and all  
10 qualifications or proposals, including, but not limited to, the  
11 right to reject any qualifications or proposals as  
12 non-responsive if, in the Agency's sole discretion, the  
13 qualifications or proposals do not meet all material  
14 requirements of the request for qualifications or request for  
15 proposals, as appropriate. The Agency shall not consider a  
16 proposal that does not include:

17 (1) the proposer's plan to comply with requirements  
18 established by the Agency regarding utilization of  
19 business enterprises, including disadvantaged business  
20 enterprises; or

21 (2) bid security in the form and amount designated in  
22 the request for proposals.

23 (j) The Agency shall consult with the chief procurement  
24 officer on the DB and the CMGC procurement processes, and the  
25 Secretary or the Executive Director, in consultation with the  
26 chief procurement officer, shall determine which procedures to

1 adopt and apply to the design-build and CMGC procurement  
2 processes in order to ensure an open, transparent, and  
3 efficient process that accomplishes the purposes of this Act.

4 Section 30. Evaluation committee.

5 (a) The Agency shall establish one or more evaluation  
6 committees to assist in selecting a DB and a CMGC. The Agency  
7 shall, in its sole discretion, determine the appropriate size  
8 and composition of the evaluation committee, provided that at  
9 least half of the committee must be licensed design  
10 professionals.

11 (b) The Agency may establish an evaluation committee for a  
12 set term or for the procurement of a particular transportation  
13 facility.

14 (c) Once the Agency identifies the proposers for a  
15 transportation facility, each member of an evaluation  
16 committee must certify that no conflict of interest exists  
17 between the member and the proposers. If the Agency, after  
18 consultation with the chief procurement officer, determines  
19 that an actual conflict exists, the member shall not  
20 participate on the evaluation committee for that procurement  
21 and the Agency shall appoint a replacement member on either a  
22 permanent or temporary basis.

23 Section 35. Procedures for selection. The Agency shall  
24 review, evaluate, rank, and score proposals and determine which

1 proposal offers the best value to the public based on the  
2 evaluation criteria set forth in the request for proposals, and  
3 shall award the contract based on those determinations.  
4 Notwithstanding other provisions of this Section, if for any  
5 reason the proposer awarded the contract is unable or unwilling  
6 to execute the contract, including the failure of the proposer  
7 and the Agency to successfully complete negotiations, if any,  
8 of the contract, the Agency may award the contract to the  
9 proposer whose proposal the Agency determines offers the public  
10 the next best value.

11 Section 40. Project records; confidentiality; public  
12 disclosure.

13 (a) The Agency shall maintain all written decisions,  
14 qualification and proposal evaluations, scoring documents,  
15 selection evaluations, proposals, and procurement documents in  
16 a procurement file maintained by the Agency.

17 (b) A proposer may identify those portions of a proposal or  
18 other submission that the proposer considers to be trade  
19 secrets or confidential, commercial, financial, or proprietary  
20 information. To consider confidential and proprietary  
21 information, including trade secrets, to be exempt from  
22 disclosure, the proposer shall do all of the following:

23 (1) request exclusion from disclosure upon submission  
24 of the information or other materials for which protection  
25 is sought;

1           (2) identify the data or other materials for which  
2 protection is sought;

3           (3) state the statutory or regulatory basis for the  
4 protection;

5           (4) fully comply with the federal Freedom of  
6 Information Act and any other applicable provisions of  
7 State law, including, but not limited to, the Freedom of  
8 Information Act, with respect to information the proposer  
9 contends should be exempt from disclosure; and

10          (5) certify if the information is in accordance with  
11 the protection of the Illinois Trade Secrets Act.

12          (c) Notwithstanding any other provision of law, in order to  
13 properly balance the need to maximize competition under this  
14 Act with the need to create a transparent procurement process,  
15 the qualifications, proposals, and other information and  
16 documents submitted by proposers and the Agency's evaluation  
17 records shall not be subject to release or disclosure by the  
18 Agency until execution of the DB contract or CMGC contract, as  
19 applicable. If the Agency terminates the procurement for a  
20 transportation facility, the exemption from release or  
21 disclosure under this Section shall remain in place until the  
22 Agency re-procures the transportation facility and has entered  
23 into a DB contract or CMGC contract, as applicable. However,  
24 this exemption shall lapse if the Agency does not commence the  
25 re-procurement of the transportation facility within 5 years of  
26 the termination.

1           Section 45. Design-build contract. A DB contract may  
2 include any provisions the Agency determines are necessary or  
3 appropriate, including, but not limited to, provisions  
4 regarding the following:

5           (1) compensation or payments to the DB;

6           (2) grounds for termination of the DB contract,  
7 including the Agency's right to terminate for convenience;

8           (3) liability for damages and nonperformance;

9           (4) events of default and the rights and remedies  
10 available to the design-builder and the Agency in the event  
11 of a default or delay;

12           (5) the identification of any technical specifications  
13 that the DB must comply with when developing plans or  
14 performing construction work;

15           (6) the procedures for review and approval of the DB's  
16 plans;

17           (7) required performance and payment security;

18           (8) the terms and conditions of indemnification and  
19 minimum insurance requirements; and

20           (9) any other terms and conditions the Agency deems  
21 necessary.

22           Section 50. Construction manager-general contractor  
23 contract.

24           (a) The CMGC contract shall divide the CMGC services into 2

1 phases. The first phase shall address preconstruction services  
2 and the procedures the parties shall follow to finalize the  
3 contract terms for the second phase. The second phase shall  
4 address the CMGC's construction of the transportation facility  
5 for a lump sum or a guaranteed maximum price.

6 (b) A CMGC contract shall include provisions regarding the  
7 following:

8 (1) the CMGC's provision of preconstruction services  
9 during the first phase of the contract, including the  
10 CMGC's compensation for those services;

11 (2) a requirement that, during the first phase of the  
12 contract, the CMGC shall use a competitive bidding process  
13 to procure subcontracts for at least the minimum percentage  
14 of construction work specified in the request for  
15 proposals, provided that:

16 (A) compliance with this requirement shall be  
17 based on an estimated cost for the construction work  
18 approved by the Agency prior to the start of the  
19 competitive bidding process; and

20 (B) the CMGC may not use subcontracts with its  
21 wholly or partially owned subsidiaries, parent  
22 companies, or affiliates to satisfy this obligation;

23 (3) the process the Agency and the CMGC will use to  
24 determine a lump sum or guaranteed maximum price for the  
25 construction work, which shall include a requirement that  
26 the Agency conduct an independent cost estimate for the

1 construction work; and

2 (4) grounds for termination of the CMGC contract,  
3 including the Agency' s right to terminate the contract and  
4 not proceed with the construction phase of the project if  
5 the Agency and the CMGC are unable to negotiate a lump sum  
6 or guaranteed maximum price for the construction work.

7 (c) In addition to the provisions under subsection (b) of  
8 this Section, a CMGC contract may include any other provisions  
9 the Agency determines are necessary or appropriate, including,  
10 but not limited to, provisions regarding the following:

11 (1) liability for damages and nonperformance;

12 (2) events of default and the rights and remedies  
13 available to the CMGC and the Agency in the event of a  
14 default or delay;

15 (3) the identification of any technical specifications  
16 that the CMGC must comply with when aiding the Agency with  
17 developing plans or performing construction work;

18 (4) required performance and payment security for the  
19 construction phase of the contract;

20 (5) the terms and conditions of indemnification and  
21 minimum insurance requirements; and

22 (6) any other terms and conditions the Agency deems  
23 necessary.

24 (d) If the CMGC contract is terminated for any reason, the  
25 Agency may, in its sole discretion, re-advertise the CMGC  
26 contract under this Act or use any other authorized procurement

1 method to complete the transportation facility or any portion  
2 of the transportation facility. Once the contract is  
3 terminated, the Agency may use any work product developed by  
4 the CMGC to complete the transportation facility.

5 Section 55. Funding; financing.

6 (a) The Agency may utilize any lawful source of funding and  
7 financing to compensate a DB and CMGC for work and services  
8 performed under a DB contract or CMGC contract, as applicable,  
9 and the Agency may combine federal, State, local, and private  
10 funds to finance a transportation facility.

11 (b) Subject to appropriation by the General Assembly of the  
12 required amounts, the Agency may obligate and make expenditures  
13 of funds as and when needed to satisfy its payment obligations  
14 under a DB contract or CMGC contract.

15 Section 56. Utilization requirements. DB and CMGC projects  
16 shall comply with Section 2-105 of the Illinois Human Rights  
17 Act and all applicable laws and rules that establish standards  
18 and procedures for the utilization of minority, disadvantaged,  
19 and female-owned businesses, including, but not limited to, the  
20 Business Enterprise for Minorities, Females, and Persons with  
21 Disabilities Act.

22 Section 60. Acquisition of property; related agreements.  
23 The Agency may exercise any and all powers of condemnation or

1 eminent domain, including quick-take powers, to acquire lands  
2 or estates or interests in land for a transportation facility  
3 under this Act to the extent the Agency finds that the action  
4 serves the public purpose of this Act and deems the action  
5 appropriate in the exercise of its powers under this Act. In  
6 addition, the Agency and a DB or CMGC may enter into leases,  
7 licenses, easements, and other grants of property interests  
8 that the Agency determines are necessary to deliver a  
9 transportation facility under this Act.

10 Section 65. Federal requirements. In the procurement of DB  
11 contracts and CMGC contracts, the Agency shall, to the extent  
12 applicable, comply with federal law and regulations and take  
13 all necessary steps to adapt its rules, policies, and  
14 procedures to remain eligible for federal aid.

15 Section 70. Powers. The powers granted to the Agency under  
16 this Act, including the power to procure and enter into DB and  
17 CMGC contracts, shall be liberally construed to accomplish its  
18 purpose, are in addition to any existing powers of the Agency,  
19 and shall not affect or impair any other powers authorized  
20 under applicable law.

21 Section 75. Rulemaking.

22 (a) The Illinois Administrative Procedure Act applies to  
23 all administrative rules and procedures of the Agency under

1 this Act, except that nothing in this Act shall be construed to  
2 render any prequalification or other responsibility criteria  
3 as a "license" or "licensing" under that Act.

4 (b) The Agency, in consultation with the chief procurement  
5 officer, may adopt rules to carry out the provisions of this  
6 Act.

7 Section 905. The Department of Transportation Law of the  
8 Civil Administrative Code of Illinois is amended by adding  
9 Section 2705-233 as follows:

10 (20 ILCS 2705/2705-233 new)

11 Sec. 2705-233. Design-build and construction  
12 manager-general contractor for the transportation  
13 infrastructure. The Department may exercise all powers granted  
14 to it under the Innovations for Transportation Infrastructure  
15 Act, including, but not limited to, the power to enter into all  
16 contracts or agreements necessary or incidental to the  
17 performance of its powers under that Act, and powers related to  
18 any transportation facility implemented under that Act.

19 Section 910. The Illinois Finance Authority Act is amended  
20 by adding Section 825-108 as follows:

21 (20 ILCS 3501/825-108 new)

22 Sec. 825-108. Transportation project financing. For the

1 purpose of financing a transportation facility undertaken  
2 under the Innovations for Transportation Infrastructure Act,  
3 the Authority may apply for an allocation of tax-exempt bond  
4 financing authorization provided by subsection (m) of Section  
5 142 of the United States Internal Revenue Code, as well as  
6 financing available under any other federal law or program.

7 Section 915. The Illinois Procurement Code is amended by  
8 adding Section 1-10.5 as follows:

9 (30 ILCS 500/1-10.5 new)

10 Sec. 1-10.5. Alternative Technical Concepts.  
11 Notwithstanding subsection (b) of Section 1-10 of this Code,  
12 the Department of Transportation and the Illinois State Toll  
13 Highway Authority may allow bidders and proposers to submit  
14 Alternative Technical Concepts in their bids and proposals,  
15 provided the Department or Authority determines that the  
16 Alternative Technical Concepts provide an equal or better  
17 solution than the underlying technical requirements applicable  
18 to the work. The Department and the Authority shall only use  
19 the Alternative Technical Concepts process for up to 3  
20 projects. If the Department or Authority allow bidders or  
21 proposers for a particular contract to submit Alternative  
22 Technical Concepts, the Department or Authority shall describe  
23 the process for Alternative Technical Concepts submission and  
24 evaluation in the procurement documents for that contract,

1 including the potential use of confidential meetings and the  
2 exchange of confidential information with bidders and  
3 proposers to review and discuss potential or proposed  
4 Alternative Technical Concepts.

5 Section 920. The Architectural, Engineering, and Land  
6 Surveying Qualifications Based Selection Act is amended by  
7 adding Section 85 as follows:

8 (30 ILCS 535/85 new)

9 Sec. 85. Design-build and construction manager-general  
10 contractor contracts. This Act shall not apply to the  
11 procurement of or contracting for transportation facilities  
12 using design-build contracts and construction manager-general  
13 contractor contracts under the Innovations for Transportation  
14 Infrastructure Act.

15 Section 925. The Employment of Illinois Workers on Public  
16 Works Act is amended by adding Section 2.8 as follows:

17 (30 ILCS 570/2.8 new)

18 Sec. 2.8. Design build and construction manager-general  
19 contractor contracts. This Act applies to any construction work  
20 undertaken under design build contracts and construction  
21 manager-general contractor contracts entered into under the  
22 Innovations for Transportation Infrastructure Act.

1 Section 930. The Business Enterprise for Minorities,  
2 Females, and Persons with Disabilities Act is amended by adding  
3 Section 2.8 as follows:

4 (30 ILCS 575/2.8 new)

5 Sec. 2.8. Design build and construction manager-general  
6 contractor contracts. This Act applies to any construction work  
7 undertaken under design build contracts and construction  
8 manager-general contractor contracts entered into under the  
9 Innovations for Transportation Infrastructure Act.

10 Section 931. The Toll Highway Act is amended by adding  
11 Section 11.2 as follows:

12 (605 ILCS 10/11.2 new)

13 Sec. 11.2. Design-build and construction manager - general  
14 contractor contracts. The Authority may exercise all powers  
15 granted to it under the Innovations for Transportation  
16 Infrastructure Act, including, but not limited to, the power to  
17 enter into all contracts or agreements necessary to perform its  
18 powers under that Act, and any powers related to a  
19 transportation facility implemented under that Act.

20 Section 935. The Eminent Domain Act is amended by adding  
21 Section 15-5-48 as follows:

1 (735 ILCS 30/15-5-48 new)

2 Sec. 15-5-48. Eminent domain powers in new Acts. The  
3 following provisions of law may include express grants of the  
4 power to acquire property by condemnation or eminent domain:

5 The Innovations for Transportation Infrastructure Act; for  
6 the purposes of constructing a transportation facility under  
7 the Act.

8 Section 940. The Prevailing Wage Act is amended by changing  
9 Section 2 as follows:

10 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

11 Sec. 2. This Act applies to the wages of laborers,  
12 mechanics and other workers employed in any public works, as  
13 hereinafter defined, by any public body and to anyone under  
14 contracts for public works. This includes any maintenance,  
15 repair, assembly, or disassembly work performed on equipment  
16 whether owned, leased, or rented.

17 As used in this Act, unless the context indicates  
18 otherwise:

19 "Public works" means all fixed works constructed or  
20 demolished by any public body, or paid for wholly or in part  
21 out of public funds. "Public works" as defined herein includes  
22 all projects financed in whole or in part with bonds, grants,  
23 loans, or other funds made available by or through the State or

1 any of its political subdivisions, including but not limited  
2 to: bonds issued under the Industrial Project Revenue Bond Act  
3 (Article 11, Division 74 of the Illinois Municipal Code), the  
4 Industrial Building Revenue Bond Act, the Illinois Finance  
5 Authority Act, the Illinois Sports Facilities Authority Act, or  
6 the Build Illinois Bond Act; loans or other funds made  
7 available pursuant to the Build Illinois Act; loans or other  
8 funds made available pursuant to the Riverfront Development  
9 Fund under Section 10-15 of the River Edge Redevelopment Zone  
10 Act; or funds from the Fund for Illinois' Future under Section  
11 6z-47 of the State Finance Act, funds for school construction  
12 under Section 5 of the General Obligation Bond Act, funds  
13 authorized under Section 3 of the School Construction Bond Act,  
14 funds for school infrastructure under Section 6z-45 of the  
15 State Finance Act, and funds for transportation purposes under  
16 Section 4 of the General Obligation Bond Act. "Public works"  
17 also includes (i) all projects financed in whole or in part  
18 with funds from the Department of Commerce and Economic  
19 Opportunity under the Illinois Renewable Fuels Development  
20 Program Act for which there is no project labor agreement; (ii)  
21 all work performed pursuant to a public private agreement under  
22 the Public Private Agreements for the Illiana Expressway Act or  
23 the Public-Private Agreements for the South Suburban Airport  
24 Act; ~~and~~ (iii) all projects undertaken under a public-private  
25 agreement under the Public-Private Partnerships for  
26 Transportation Act; and (iv) all transportation facilities

1 undertaken under a design-build contract or a construction  
2 manager-general contractor contract under the Innovations for  
3 Transportation Infrastructure Act. "Public works" also  
4 includes all projects at leased facility property used for  
5 airport purposes under Section 35 of the Local Government  
6 Facility Lease Act. "Public works" also includes the  
7 construction of a new wind power facility by a business  
8 designated as a High Impact Business under Section 5.5(a) (3) (E)  
9 of the Illinois Enterprise Zone Act. "Public works" does not  
10 include work done directly by any public utility company,  
11 whether or not done under public supervision or direction, or  
12 paid for wholly or in part out of public funds. "Public works"  
13 also includes any corrective action performed pursuant to Title  
14 XVI of the Environmental Protection Act for which payment from  
15 the Underground Storage Tank Fund is requested. "Public works"  
16 does not include projects undertaken by the owner at an  
17 owner-occupied single-family residence or at an owner-occupied  
18 unit of a multi-family residence. "Public works" does not  
19 include work performed for soil and water conservation purposes  
20 on agricultural lands, whether or not done under public  
21 supervision or paid for wholly or in part out of public funds,  
22 done directly by an owner or person who has legal control of  
23 those lands.

24 "Construction" means all work on public works involving  
25 laborers, workers or mechanics. This includes any maintenance,  
26 repair, assembly, or disassembly work performed on equipment

1 whether owned, leased, or rented.

2 "Locality" means the county where the physical work upon  
3 public works is performed, except (1) that if there is not  
4 available in the county a sufficient number of competent  
5 skilled laborers, workers and mechanics to construct the public  
6 works efficiently and properly, "locality" includes any other  
7 county nearest the one in which the work or construction is to  
8 be performed and from which such persons may be obtained in  
9 sufficient numbers to perform the work and (2) that, with  
10 respect to contracts for highway work with the Department of  
11 Transportation of this State, "locality" may at the discretion  
12 of the Secretary of the Department of Transportation be  
13 construed to include two or more adjacent counties from which  
14 workers may be accessible for work on such construction.

15 "Public body" means the State or any officer, board or  
16 commission of the State or any political subdivision or  
17 department thereof, or any institution supported in whole or in  
18 part by public funds, and includes every county, city, town,  
19 village, township, school district, irrigation, utility,  
20 reclamation improvement or other district and every other  
21 political subdivision, district or municipality of the state  
22 whether such political subdivision, municipality or district  
23 operates under a special charter or not.

24 The terms "general prevailing rate of hourly wages",  
25 "general prevailing rate of wages" or "prevailing rate of  
26 wages" when used in this Act mean the hourly cash wages plus

1 annualized fringe benefits for training and apprenticeship  
2 programs approved by the U.S. Department of Labor, Bureau of  
3 Apprenticeship and Training, health and welfare, insurance,  
4 vacations and pensions paid generally, in the locality in which  
5 the work is being performed, to employees engaged in work of a  
6 similar character on public works.

7 (Source: P.A. 97-502, eff. 8-23-11; 98-109, eff. 7-25-13;  
8 98-482, eff. 1-1-14; 98-740, eff. 7-16-14; 98-756, eff.  
9 7-16-14.)

10 Section 997. Severability. The provisions of this Act are  
11 severable under Section 1.31 of the Statute on Statutes.

12 Section 999. Effective date. This Act takes effect upon  
13 becoming law."